IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

LAWRENCE K. BUTCHER and
JENNIFER BUTCHER   **PLAINTIFFS**

VS.   **CIVIL ACTION NO. 1:06cv423-KS-MTP**

ALLSTATE INSURANCE COMPANY, ET AL.   **DEFENDANTS**

ORDER

This matter is before the court on the Motion for Reconsideration of the Motion to Continue Trial Date, and Remove Case From Current Trial Docket, Scheduling Deadlines and Motion for a Protective Order [53] filed by the plaintiffs. The motion seeks to further continue the trial date and stay the proceedings in this civil action pending the final disposition of the criminal proceeding against plaintiff Lawrence K. Butcher, which has been continued until March 3, 2008. The court, having fully considered the unopposed motion, finds as follows:

The plaintiffs filed this civil action on September 15, 2005, against Allstate alleging that it refused to pay the plaintiffs for damages and losses caused by a fire at their residence. On September 15, 2006, plaintiff Lawrence K. Butcher was indicted by the Grand Jury of Pearl River County, Mississippi for arson. The Grand Jury charged that Mr. Butcher willfully, unlawfully, intentionally, feloniously, and maliciously set fire to his residence with the intent to injure and defraud Allstate. Mr. Butcher's criminal trial was originally set for November 20, 2007, and the trial of this civil action was originally set for October 8, 2007.

On or about June 8, 2007, plaintiffs filed a Motion to Continue Trial Date, and Remove Case From Current Trial Docket, Scheduling Deadlines and Motion for a Protective Order [43] [45]. On July 18, 2007, this court entered an Order [51] granting plaintiffs' motions, continuing the trial date, and staying all discovery and other deadlines set forth in the Amended Scheduling Order [27] pending the resolution of Mr. Butcher's criminal trial on November 20, 2007.

On or about November 22, 2007, the plaintiffs filed the instant Motion for

Reconsideration of the Motion to Continue Trial Date, and Remove Case From Current Trial

Docket, Scheduling Deadlines and Motion for a Protective Order [53], based on the ground that

Mr. Butcher's criminal trial was continued until March 3, 2008, due to "the Thanksgiving

Holiday and other extenuating circumstances."

In the interest of protecting the rights of all parties, and considering that no party will be

unduly prejudiced by the entry of a stay in this matter, the court finds that this civil action should

be stayed at this time. *See U.S. v. Little Al*, 712 F.2d 133, 136 (5th Cir. 1983) ("Certainly, a

district court may stay a civil proceeding during the pendency of a parallel criminal

proceeding."). The court also notes that the plaintiffs' motion could be properly granted as

unopposed pursuant to Local Rule 7.2(C)(2), since no party has filed a response to the motion

within the time allowed.

It is, therefore, ORDERED as follows:

1.   That the plaintiffs' motion [53] is granted. The trial date, discovery, and other

        deadlines set forth in the Amended Scheduling Order [27] are continued and the

        proceedings in this civil action are stayed until March 15, 2008. However, the

        court having previously allowed plaintiff a reasonable time to address the criminal

        charges pending against him– which did not occur for such reasons as "holidays"

        and unexplained "extenuating circumstances"– and the court now having granted

        a second continuance to allow plaintiff to address and conclude the criminal

        charges, no further continuances will be granted so that this matter may proceed to

        disposition. Thus, the parties should govern themselves accordingly.

2.   That a telephonic case management conference is set for March 19, 2008 at 9:00

a.m. Counsel for plaintiffs is responsible for initiating the call and shall contact

the undersigned's chambers once all parties are connected. All parties shall

submit confidential settlement memoranda to the court at least three days prior to

the conference.

SO ORDERED AND ADJUDGED this the 10th day of December, 2007.

s/ Michael T. Parker
United States Magistrate Judge